

## **EXHIBIT 2**

Side - 1



**NOTICE OF ACCEPTANCE AND  
ACKNOWLEDGEMENT OF §§8 & 15  
DECLARATION  
MAILING DATE: Dec 10, 2009**

The combined declaration of use and incontestability filed in connection with the registration identified below meets the requirements of Sections 8 and 15 of the Trademark Act, 15 U.S.C. §1058 and 1065. The combined declaration is accepted and acknowledged. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

**REG NUMBER:** 2804403  
**MARK:** KOOL SMILES  
**OWNER:** NCDR, L.L.C.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA, VA 22313-1451

FIRST-CLASS  
MAIL  
U.S POSTAGE  
PAID

R. Lee Fraley  
SNELL & WILMER L.L.P.  
ONE ARIZONA CENTER  
400 EAST VAN BUREN  
PHOENIX, AZ 85004-2202

## Combined Declaration of Use and Incontestability under Sections 8 & 15

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**The table below presents the data as entered.**

Input Field	Entered
<b>REGISTRATION NUMBER</b>	2804403
<b>REGISTRATION DATE</b>	01/13/2004
<b>SERIAL NUMBER</b>	76477494
<b>MARK SECTION</b>	
<b>MARK</b>	KOOL SMILES
<b>OWNER SECTION (current)</b>	
<b>NAME</b>	NCDR, L.L.C.
<b>STREET</b>	3145 E. Chandler Boulevard
<b>CITY</b>	Phoenix
<b>STATE</b>	Arizona
<b>ZIP/POSTAL CODE</b>	85048
<b>COUNTRY</b>	United States
<b>OWNER SECTION (proposed)</b>	
<b>NAME</b>	NCDR, L.L.C.
<b>INTERNAL ADDRESS</b>	Suite 800
<b>STREET</b>	400 Galleria Parkway
<b>CITY</b>	Atlanta
<b>STATE</b>	Georgia
<b>ZIP/POSTAL CODE</b>	30339
<b>COUNTRY</b>	United States
<b>ATTORNEY SECTION (current)</b>	
<b>NAME</b>	R. Lee Fraley
<b>FIRM NAME</b>	SNELL & WILMER L.L.P.

<b>INTERNAL ADDRESS</b>	400 EAST VAN BUREN
<b>STREET</b>	ONE ARIZONA CENTER
<b>CITY</b>	PHOENIX
<b>STATE</b>	Arizona
<b>POSTAL CODE</b>	85004-2202
<b>COUNTRY</b>	United States
<b>PHONE</b>	(602) 382-6250
<b>FAX</b>	(602) 382-6070
<b>EMAIL</b>	lfraley@swlaw.com

**ATTORNEY SECTION (proposed)**

<b>NAME</b>	R. Lee Fraley
<b>FIRM NAME</b>	SNELL & WILMER L.L.P.
<b>INTERNAL ADDRESS</b>	400 EAST VAN BUREN
<b>STREET</b>	ONE ARIZONA CENTER
<b>CITY</b>	PHOENIX
<b>STATE</b>	Arizona
<b>POSTAL CODE</b>	85004-2202
<b>COUNTRY</b>	United States
<b>PHONE</b>	(602) 382-6250
<b>FAX</b>	(602) 382-6070
<b>EMAIL</b>	lfraley@swlaw.com
<b>ATTORNEY DOCKET NUMBER</b>	40789.0100
<b>OTHER APPOINTED ATTORNEY</b>	Charles F. Hauff, Jr., Laura J. Zeman, Howard Sobelman, David O. Caplan, Sid Leach, Damon L. Boyd, John H. Platt; Cynthia L. Pillote; Ketan Vakil; Albin H. Gess; Joseph W. Price, Jr.; J. Rick Tache; Sean D. Burdick; Damon Ashcraft; Edward Y. Lin; David Barker; Eric Nielsen; Marc Hennesee; David Nigro; Ryan Ricks; Dan Salehi

**GOODS AND/OR SERVICES SECTION**

<b>INTERNATIONAL CLASS</b>	044
<b>GOODS OR SERVICES</b>	KEEP ALL LISTED
<b>SPECIMEN FILE NAME(S)</b>	<a href="\\TICRS\\EXPORT8\\IMAGEOUT8">\\TICRS\\EXPORT8\\IMAGEOUT8</a>

	<a href="\\TICRS\EXPORT8\IMAGEOUT8\764\774\76477494\xml1\81_50002.JPG">\\TICRS\EXPORT8\IMAGEOUT8 \\764\774\76477494\xml1\81_50002.JPG</a>
	<a href="\\TICRS\EXPORT8\IMAGEOUT8\764\774\76477494\xml1\81_50003.JPG">\\TICRS\EXPORT8\IMAGEOUT8 \\764\774\76477494\xml1\81_50003.JPG</a>
	<a href="\\TICRS\EXPORT8\IMAGEOUT8\764\774\76477494\xml1\81_50004.JPG">\\TICRS\EXPORT8\IMAGEOUT8 \\764\774\76477494\xml1\81_50004.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	Screen shots of Registrant's website displaying the mark, describing the services and providing contact information for potential consumers to purchase the services
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	300
TOTAL FEE PAID	300
<b>SIGNATURE SECTION</b>	
SIGNATURE	/R. Lee Fraley/
SIGNATORY'S NAME	R. Lee Fraley
SIGNATORY'S POSITION	Attorney of Record, Arizona bar member
DATE SIGNED	12/01/2009
PAYMENT METHOD	DA
<b>FILING INFORMATION</b>	
SUBMIT DATE	Tue Dec 01 11:38:04 EST 2009
TEAS STAMP	USPTO/S08N15-12.159.66.29 -20091201113804338441-280 4403-460ad7c753d7289931e1 a1e2425b51a646-DA-13645-2 0091201112015771318

**Combined Declaration of Use and Incontestability under Sections 8 & 15  
To the Commissioner for Trademarks:**

**REGISTRATION NUMBER:** 2804403

**REGISTRATION DATE:** 01/13/2004

**MARK:** KOOL SMILES

The owner, NCDR, L.L.C., having an address of

Suite 800  
400 Galleria Parkway  
Atlanta, Georgia 30339  
United States

is filing a Combined Declaration of Use and Incontestability under Sections 8 & 15.

For International Class 044, the mark is in use in commerce on or in connection with **all** of the goods or services listed in the existing registration for this specific class; **and** the mark has been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with **all** goods or services listed in the existing registration for this class. Also, no final decision adverse to the owner's claim of ownership of such mark for those goods or services exists, or to the owner's right to register the same or to keep the same on the register; and, no proceeding involving said rights pending and not disposed of in either the U.S. Patent and Trademark Office or the courts exists.

The owner is submitting one specimen for this class showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) Screen shots of Registrant's website displaying the mark, describing the services and providing contact information for potential consumers to purchase the services.

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

The registrant hereby appoints R. Lee Fraley and Charles F. Hauff, Jr., Laura J. Zeman, Howard Sobelman, David O. Caplan, Sid Leach, Damon L. Boyd, John H. Platt; Cynthia L. Pillote; Keton Vakil; Albin H. Gess; Joseph W. Price, Jr.; J. Rick Tache; Sean D. Burdick; Damon Ashcraft; Edward Y. Lin; David Barker; Eric Nielsen; Marc Hennessee; David Nigro; Ryan Ricks; Dan Salehi of SNELL & WILMER L.L.P.

400 EAST VAN BUREN  
ONE ARIZONA CENTER  
PHOENIX, Arizona 85004-2202  
United States

to file this Combined Declaration of Use and Incontestability under Sections 8 & 15 on behalf of the registrant. The attorney docket/reference number is 40789.0100.

A fee payment in the amount of \$300 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

### **Declaration**

*The mark is in use in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The mark has been in continuous use in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce. There has been no final decision adverse to the owner's claim of ownership of such mark, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the U.S. Patent and Trademark Office or in the courts.*

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /R. Lee Fraley/ Date: 12/01/2009

Signatory's Name: R. Lee Fraley

Signatory's Position: Attorney of Record, Arizona bar member

**Mailing Address (current):**

SNELL & WILMER L.L.P.  
ONE ARIZONA CENTER  
PHOENIX, Arizona 85004-2202

**Mailing Address (proposed):**

SNELL & WILMER L.L.P.  
ONE ARIZONA CENTER  
PHOENIX, Arizona 85004-2202

Serial Number: 76477494

Internet Transmission Date: Tue Dec 01 11:38:04 EST 2009

TEAS Stamp: USPTO/S08N15-12.159.66.29-20091201113804

338441-2804403-460ad7c753d7289931e1a1e24

25b51a646-DA-13645-20091201112015771318

**Kool Smiles**

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## That's One Kool Smile.

Kool Smiles is a network of dental offices that provides general dental care to children and parents.

**Kool Families** 

Patient satisfaction is a top priority. Read what our patients are saying about their Kool Smiles experience.

**Kool Opportunities** 

Professional, personal, and financial growth are the cornerstones of our organizational philosophy.

**One Kool Company** 

Kool Smiles is dedicated to expanding access to quality dental care for children and adults in underserved communities.

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## Kool Smiles

The Surgeon General has concluded that oral care is the #1 unmet need for children across America today. Dental caries (tooth decay) is the single most chronic childhood disease – 5 times more common than asthma and 7 times more common than hay fever. Over 50 percent of 5- to 9-year-old children have at least one cavity or filling, and that proportion increases to 78 percent among 17-year-olds. Oral health is essential to the general health and well-being of our children and plays a critical role in their ability to succeed in school and acquire positive self-esteem. The alarming state of oral health in children today is the foundation on which we have built our mission, and

**Mission Statement:** To expand access to high quality dental care for underserved communities

**Vision Statement:** To provide high quality dental care to children and their parents

On August 12, 2002 the first Kool Smiles office was opened by Dr. Tu Tran and Dr. Thien Pham in Decatur, Georgia, providing urgently needed care for underserved children in the Dekalb County area. In its first year of operation, the Kool Smiles - Decatur office was able to treat over 10,000 children and young adults. For many of these patients, this Kool Smiles experience was their first exposure to dental care.

Since opening our first office in 2002, we have recognized the need for all children to have access to quality dental care throughout America. Our comprehensive general dental care is available to children and adults. Services include preventative care, diagnostic imaging, and a full range of restorative care including endodontics (root canals).

Our offices are designed to serve our patients. Our newly constructed offices facilitate communication between our patients and our doctors, and provide an enjoyable atmosphere for children and adults. We have invested heavily in electronic health records and believe that the best equipment is vital to providing the very best patient care.

Kool Smiles also plays a major role in each of our communities. We work together with local schools, daycare centers, doctors, and community and social service agencies to ensure that children's overall healthcare needs are being met. Free Oral Health Education and Dental Screenings, sponsorships of local events and volunteering our time are all ways that Kool Smiles becomes an active member of each community it serves.





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## Contact Us

### Kool Smiles PC

Interested in making an appointment? [Click here](#)

Phone: 1-866-GET-KOOL (438-5665)

Email: [info@koolsmilespc.com](mailto:info@koolsmilespc.com)

Web: [www.koolsmilespc.com](http://www.koolsmilespc.com)

Kool Smiles

Kool Quality

Dental Leadership

**Contact Us**

Kool Smiles News

### Patient Financial Services

Billing Inquiries:

Email: [patientbilling@koolsilespc.com](mailto:patientbilling@koolsilespc.com)

Telephone: 1-888-811-6511



**ROUTING SHEET TO POST REGISTRATION (PRU)**

**Registration Number:** 2804403



**Serial Number:** 76477494



**RAM Sale Number:** 13645

**RAM Accounting Date:** 20091201

**Total Fees:** \$300

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<b><u>Transaction</u></b>	<b><u>Fee Code</u></b>	<b><u>Transaction Date</u></b>	<b><u>Fee per Class</u></b>	<b><u>Number of Classes</u></b>	<b><u>Number of Classes Paid</u></b>	<b><u>Total Fee</u></b>
§8 affidavit	7205	20091201	\$100	1	1	\$100
§15 affidavit	7208	20091201	\$200	1	1	\$200

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

**Transaction Date:** 20091201



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## Kool Smiles

### Kool Smiles

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**Vision Statement:** To provide high quality dental care to children and their parents

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Phone: 1-866-GET-KOOL (438-5665)

Email: [info@koolsmilespc.com](mailto:info@koolsmilespc.com)

Web: [www.koolsmilespc.com](http://www.koolsmilespc.com)

### Patient Financial Services

Billing Inquiries:

Email: [patientbilling@koolsilespc.com](mailto:patientbilling@koolsilespc.com)

Telephone: 1-888-811-6511



**Int. Cl.: 44**

**Prior U.S. Cls.: 100 and 101**

**Reg. No. 2,804,403**

**United States Patent and Trademark Office**

**Registered Jan. 13, 2004**

**SERVICE MARK  
PRINCIPAL REGISTER**

**KOOL SMILES**

NCDR, L.L.C. (DELAWARE LTD LIAB CO)  
3145 E. CHANDLER BOULEVARD  
SUITE 110-636  
PHOENIX, AZ 85048

FIRST USE 8-15-2002; IN COMMERCE 8-15-2002.

SER. NO. 76-477,494, FILED 12-23-2002.

FOR: GENERAL DENTISTRY SERVICES, IN  
CLASS 44 (U.S. CLS. 100 AND 101).

PAULA MAHONEY, EXAMINING ATTORNEY

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Commissioner for Trademarks  
2900 Crystal Drive  
Arlington , VA 22202-3514  
[www.uspto.gov](http://www.uspto.gov)

Oct 1, 2003

## NOTICE OF PUBLICATION UNDER 12(a)

- |                             |                      |               |
|-----------------------------|----------------------|---------------|
| 1. Serial No.:              | 2. Mark:             |               |
| 76/477,494                  | KOOL SMILES          |               |
| 3. International Class(es): | 4. Publication Date: | 5. Applicant: |
| 44                          | Oct 21, 2003         | NCDR, L.L.C.  |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents  
U.S. Government Printing Office  
PO Box 371954  
Pittsburgh, PA 15250-7954  
Phone: (202) 512-1800

By direction of the Commissioner.

---

Correspondence Address:

R. LEE FRALEY  
SNELL & WILMER L.L.P.  
ONE ARIZONA CENTER  
400 EAST VAN BUREN  
PHOENIX, ARIZONA 85004-2202

TMP&I

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 76/477494

**APPLICANT:** NCDR, L.L.C.

**CORRESPONDENT ADDRESS:**

R. LEE FRALEY  
SNELL & WILMER L.L.P.  
ONE ARIZONA CENTER  
400 EAST VAN BUREN  
PHOENIX, ARIZONA 85004-2202

**RETURN ADDRESS:**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514  
**ecom113@uspto.gov**

**MARK:** KOOL SMILES

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 40789.0100

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and email address.

Serial Number 76/477494

**EXAMINER'S AMENDMENT**

In accordance with the authorization granted by R. Lee Fraley on August 12, 2003, the application has been AMENDED as indicated below. Please note that if the identification of goods or services has been amended below, any future amendments must be in accordance with 37 C.F.R. 2.71(a); TMEP section 1402.07(e). No response is necessary unless there is an objection to the amendment. If there is an objection to the amendment, the applicant should notify the examining attorney immediately.

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

Recitation of Services

The recitation of services is amended to read as follows:

"General dentistry services" in Class 44.

If the applicant has any questions regarding this Office action, please telephone the assigned examining attorney.

/Paula Mahoney/  
Trademark Attorney  
Law Office 113  
703-308-9113 x 279

**Fee increase effective January 1, 2003**

Effective January 1, 2003, the fee for filing an application for trademark registration will be increased to **\$335.00** per International Class. The USPTO will not accord a filing date to applications that are filed on or after that date that are not accompanied by a minimum of \$335.00.

Additionally, the fee for amending an existing application to add an additional class or classes of goods/services will be \$335.00 per class [for classes added on or after January 1, 2003](#).

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 76/477494

**APPLICANT:** NCDR, L.L.C.

**CORRESPONDENT ADDRESS:**

R. LEE FRALEY  
SNELL & WILMER L.L.P.  
ONE ARIZONA CENTER  
400 EAST VAN BUREN  
PHOENIX, ARIZONA 85004-2202

**RETURN ADDRESS:**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514  
**ecom113@uspto.gov**

**MARK:** KOOL SMILES

**CORRESPONDENT'S REFERENCE/DOCKET NO :** 40789.0100

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

Serial Number 76/477494

The assigned examining attorney has reviewed the referenced application and determined the following.

**Recitation of Services**

The applicant's recitation of services is unacceptable as indefinite. Specifically, "dental services" could include services classified in International Classes other than those identified by applicant. The applicant may adopt any of the following, if accurate:

International Class 40: dental services, namely dental technician and laboratory services.

International Class 44: general dentistry services.

Please note that, while an application may be amended to clarify or limit the recitation of services, additions to the recitation of services are not permitted. 37 C.F.R. §2.71(a); TMEP §§1402.03(a) and 1402.11. Therefore, the applicant may not amend to include any services that are not within the scope of services set forth in the present recitation.

**Multiple Class Application**

The recitation of services contains services that may be classified in several International Classes. If the applicant prosecutes this application as a combined, or multiple class application based on use in commerce under Trademark Act Section 1(a), 15 U.S.C. §1051(a), the applicant must comply with each of the following:

- (1) The applicant must specifically identify the services in each class and list the services by international class with the classes listed in ascending numerical order. TMEP §1403.01.
- (2) The applicant must submit a filing fee for each international class of goods/services not covered by the fee already paid. 37 C.F.R. §§2.6(a)(1) and 2.86(b); TMEP §§810.01 and 1403.01. Effective January 1, 2003, the fee for filing a trademark application is \$335 for each class. This applies to classes added to pending applications as well as to new applications filed on or after that date.
- (3) The applicant must submit:
  - (a) dates of first use and first use in commerce and one specimen for each class that includes goods or services based on use in commerce under Trademark Act Section 1(a). The dates of use must be at least as early as the filing date of this application, 37 C.F.R. §§2.34(a)(1) and 2.86(a), and the specimen(s) must have been in use in commerce at least as early as the filing date of the application, and/or
  - (b) a statement of a bona fide intention to use the mark in commerce on or in connection with all the goods or services specified in each class that includes goods or services based on a bona fide intention to use the mark in commerce under Trademark Act Section 1(b), where such statement was not included for the goods or services in the original application.
- (4) The applicant must submit an affidavit or a declaration under 37 C.F.R. §2.20 signed by the applicant to verify (3) above. 37 C.F.R. §§2.59(a) and 2.71(c).

## **Disclaimer**

The applicant must disclaim the descriptive wording “GENERAL DENTISTRY FOR CHILDREN” apart from the mark as shown. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a). Applicant is providing general dentistry services to children. Thus, the wording merely describes the services.

A properly worded disclaimer should read as follows:

No claim is made to the exclusive right to use “GENERAL DENTISTRY FOR CHILDREN” apart from the mark as shown.

## **Drawing**

The submitted drawing is unacceptable because it does not comply with the requirements for a special-form drawing. Specifically, the drawing contains gray. A drawing must be entirely in black-and-white. Therefore, the applicant must submit a new drawing showing the mark clearly and conforming to 37 C.F.R. Section 2.52. If the applicant wishes to depict color in the drawing, then the applicant must

provide a clear and specific description of what the color is and where the color appears in the mark. 37 C.F.R. Section 2.52(a)(2)(v).

The requirements for a specialâ€‘form drawing are as follows:

- (1) The drawing must appear in black and white; no color is permitted.
- (2) Every line and letter must be black and clear.
- (3) The use of gray to indicate shading is unacceptable.
- (4) The lining must not be too fine or too close together.
- (5) The preferred size of the area in which the mark is displayed is 2½ inches (6.1 cm.) high and 2½ inches (6.1 cm.) wide. It should not be larger than 4 inches (10.3 cm.) high or 4 inches (10.3 cm.) wide.
- (6) If the reduction of the mark to the required size renders any details illegible, the applicant may insert a statement in the application to describe the mark and these details.

37 C.F.R. §2.52; TMEP §§807.01(b) and 807.07(a). The Office will enforce these drawing requirements strictly.

The Office prefers that the drawing be depicted on a separate sheet of smooth, nonshiny, white paper 8 to 8½ inches (20.3 to 21.6 cm.) wide and 11 inches (27.9 cm.) long, and that the sheet contain a heading listing, on separate lines, the applicant's complete name; the applicant's address; the goods or services recited in the application; and, if the application is filed under Section 1(a) of the Act, the dates of first use of the mark and of first use of the mark in commerce; or, if the application is filed under Section 44(d), the priority filing date of the foreign application. 37 C.F.R. §2.52(b); TMEP §§807.01(a), 807.01(b), 807.01(c) and 807.07(a).

## General Information

The examining attorney has searched the Office records and has found no similar registered or pending mark which bars registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Richard R. Alves, Jr./  
Trademark Examining Attorney  
Law Office 113  
(703) 308-9113 x 298

## How to respond to this Office Action:

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit <http://www.uspto.gov/teas/index.html> and follow the instructions.

To respond formally via E-mail, visit <http://www.uspto.gov/web/trademarks/tmelecresp.htm> and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

\*\*\* User: ralves \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	
01	54079	N/A	0	0	0:07	*{"ck"} {"ou"} {v0:1}l*[bi,ti]
02	1822	N/A	0	0	0:04	*{"sz"}m{"iey"}l*[bi,ti]
03	22	13	9	2	0:01	1 and 2
04	13248	N/A	0	0	0:06	1 and "040"[cc]
05	757	N/A	0	0	0:03	1 and ("040" or a or b or "200")[ic]
06	13248	N/A	0	0	0:05	1 and "044"[cc]
07	349	N/A	0	0	0:04	1 and ("044" or a or b or "200")[ic]
08	244	0	244	98	0:06	7 not dead[ld]
09	813	N/A	0	0	0:05	2 and "040"[cc]
10	38	12	26	6	0:02	2 and ("040" or a or b or "200")[ic]
11	813	N/A	0	0	0:05	2 and "044"[cc]
12	38	2	36	6	0:02	2 and ("044" or a or b or "200")[ic]
13	396	0	396	160	0:06	5 not dead[ld]

Session started 5/12/03 3:24:29 PM  
Session finished 5/12/03 3:34:21 PM  
Total search duration 0 minutes 56 seconds  
Session duration 9 minutes 52 seconds

Default NEAR limit= 1 ADJ limit= 1

Sent to TICRS as Serial Number: 76477494

CERTIFICATE OF MAILING PURSUANT TO 37 C.F.R. §1.8

I hereby certify that this Request for Correction of Filing Receipt Data is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513,  
ATTENTION: Office of Trademark Program Control, on:

Date: January 28, 2003

By

Kinzie G. Andrus

SERVICE MARK

IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

Applicant(s): NCDR, L.L.C.

Docket No.: 40789.0100

Serial No.: 76/477,494

Filed: December 23, 2002

Mark: KOOL SMILES

**REQUEST FOR CORRECTION OF  
FILING RECEIPT DATA**

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513  
ATTENTION: Office of Trademark Program Control

Dear Assistant Commissioner:

Thank you for the "Filing Receipt for Trademark Application" in the above-identified application.

Please correct a typographical error in the First Use Dates. The First Use Dates are incorrectly noted as **Aug 1915** on the Filing Receipt. The correct First Use Dates are **August 15, 2002**. We have enclosed a copy of the application as filed, which clearly notes the correct First Use Dates.

For your convenience, we have also enclosed a copy of the Filing Receipt with the requested change noted thereon. With the requested correction, the Filing Receipt will agree with the Application as filed.

We look forward to receiving a corrected Filing Receipt for this application. If you should have any questions, please do not hesitate to contact the undersigned at the telephone number listed below.

Respectfully submitted,

By R. Lee Fraley  
R. Lee Fraley  
Reg. No. 42,550

**SNELL & WILMER L.L.P.**  
One Arizona Center  
400 East Van Buren  
Phoenix, AZ 85004-0001  
(602) 382-6250

## FILING RECEIPT FOR TRADEMARK APPLICATION

Page 01 of 01

Jan 11, 2003

Receipt on the DATE OF FILING of the application for registration and filing fees is acknowledged for the mark identified below. The DATE OF FILING is contingent upon the collection of any payment made by check or draft. Your application will be considered in the order in which it was received and you will be notified as to the examination thereof. Action on the merits should be expected from the Patent and Trademark Office in approximately 06 months from the filing date. When inquiring about this application, include the SERIAL NUMBER, DATE OF FILING, OWNER NAME, and MARK.

R. LEE FRALEY  
SNELL & WILMER L.L.P.  
ONE ARIZONA CENTER  
400 EAST VAN BUREN  
PHOENIX, ARIZONA 85004-2202

**ATTORNEY  
REFERENCE NUMBER  
40789.0100**

**PLEASE REVIEW THE ACCURACY OF THE FILING RECEIPT DATA.**

A request for correction to the filing receipt should be submitted within 30 days to the following address: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202-3513. The correspondence should be marked to the attention of the Preexamination File Receipt Section. Or fax a request to 703-308-9096. The Patent and Trademark Office will review the request and make corrections when appropriate.

SERIAL NUMBER: 76/477494 ✓  
FILING DATE: Dec 23, 2002 ✓  
REGISTER: Principal  
LAW OFFICE: 107  
MARK: KOOL SMILES ✓  
MARK TYPE (S): Service Mark  
DRAWING TYPE: Words, letters, or numbers in typed form  
FILING BASIS: Sect. 1(a) (Use in Commerce)

ATTORNEY: R. Lee Fraley

OWNER: NCDR, L.L.C. (DELAWARE, Limited Liability Company)  
✓ 3145 E. Chandler Boulevard  
✓ Suite 110-636  
Phoenix, ARIZONA 85048

FOR: Dental services  
INT. CLASS: 04 ✓  
FIRST USE: Aug 1915

USE IN COMMERCE: Aug 1915

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

August 15, 2002

RECEIVED

JAN 17 2003

SNELL & WILMER

TMFRFZ (REV 2/00)

ADDITIONAL INFORMATION MAY BE PRESENT IN THE PTO RECORDS

File received: 2003-02-27 11:17:03 File deadline: 11-20-03

**Snell & Wilmer**  
L.L.P.  
LAW OFFICES

One Arizona Center  
Phoenix, Arizona 85004-2202  
(602) 382-6000  
Fax: (602) 382-6070  
[www.swlaw.com](http://www.swlaw.com)

R. Lee Fraley (602) 382-6250  
[lfraley@swlaw.com](mailto:lfraley@swlaw.com)

PHOENIX, ARIZONA

TUCSON, ARIZONA

IRVINE, CALIFORNIA

SALT LAKE CITY, UTAH

DENVER, COLORADO

LAS VEGAS, NEVADA

December 20, 2002

Assistant Commissioner for Trademarks  
Box NEW APP FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

Re: NCDR, L.L.C.  
Application for Federal service mark registration  
Mark: KOOL SMILES  
Our Docket No.: 40789.0100

Dear Assistant Commissioner:

Enclosed is the Application of NCDR, L.L.C. for the service mark:

KOOL SMILES

in respect of dental services (Int'l Class 44).

Also enclosed are:

at least one (1) specimen of the mark as actually used;  
a drawing; and  
a check in the amount of \$325.00 to cover the filing fee.

Should there be a deficiency in the fee enclosed, please charge our deposit account (19-2814)  
for the difference, **for which purpose a duplicate copy of this sheet is enclosed.**

Please stamp and date the enclosed postcard to acknowledge receipt of the above materials  
and return it to us.

Very truly yours,  
Snell & Wilmer



R. Lee Fraley  
Attorney for Applicant

RLF:lla  
Enclosures

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application for Service Mark Registration

Mark: KOOL SMILES

Int'l Class: 44

Applicant: NCDR, L.L.C.  
a Delaware limited liability company

Business Address            3145 E. Chandler Boulevard  
and Situs:                   Suite 110-636  
                                    Phoenix, Arizona 85048

TO THE ASSISTANT COMMISSIONER FOR  
TRADEMARKS  
Box NEW APP FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

Dear Assistant Commissioner:

Applicant has adopted and is using in commerce the above-identified service mark shown in the accompanying drawing and requests registration of such mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §1051, *et seq.*, as amended) for the following services:

Dental services in Class 44.

The mark was first used by applicant in connection with such services at least as early as August 15, 2002, was first used in interstate commerce in connection with such services at least as early as August 15, 2002; and is now in use in such commerce by applicant.

**POWER OF ATTORNEY AT LAW**

Applicant hereby appoints Snell & Wilmer L.L.P. and attorneys at law thereof R. Lee Fraley, Michael K. Kelly, Charles F. Hauff, Jr., Howard I. Sobelman, Laura J. Zeman, David O. Caplan, Cynthia L. Pillote, Daniel R. Pote, Sid Leach; Damon L. Boyd, Thomas V. DelRosario, Wendy Neal, Michelle Whittington, Shahpar Shahpar, Allan Watts, Thomas Finn, Patrick Mixon, William F. Mulholland, II, John Platt and Dave Wood all of One Arizona Center, 400 East Van Buren, Phoenix,

EL599951440US

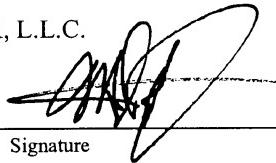
AZ 85004-2202, telephone (602) 382-6000, as its attorneys to prosecute this application, to register with full power of substitution and revocation, to transact all business in the U.S. Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration. Every member of the firm of Snell & Wilmer L.L.P. and every attorney at law associated with that firm is hereby authorized to sign any paper and to conduct any business on behalf of the applicant in this case. It is requested that correspondence be sent to Snell & Wilmer L.L.P., One Arizona Center, 400 East Van Buren, Phoenix, AZ 85004-2202, Attention: Intellectual Property Dept.

#### DECLARATION

The undersigned, being hereby duly warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he or she is properly authorized to execute this application on behalf of the applicant, that he or she believes the applicant to be the owner of the mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he or she believes the applicant to be entitled to use in commerce the mark sought to be registered, that to the best of his or her knowledge and belief no other person, firm, corporation, or association has the right to use such mark in commerce, either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive, and that all statements made of his or her own knowledge are true and all statements made on information and belief are believed to be true.

NCDR, L.L.C.

By \_\_\_\_\_

  
Signature

**12/19/2002**  
Date

**Mark Blomquist**

Printed Name

**Member - NCDR LLC**

Title

**DRAWING**

APPLICANT: NCDR, L.L.C.  
P.O. ADDRESS: 3145 E. Chandler Boulevard  
Suite 110-636  
Phoenix, Arizona 85048  
  
DATE OF FIRST USE: August 15, 2002  
DATE OF FIRST USE IN COMMERCE: August 15, 2002  
SERVICES: Dental services.  
CLASS: 44

**KOOL SMILES**

**SPECIMENS**

**MARK:**

KOOL SMILES

**APPLICANT:**

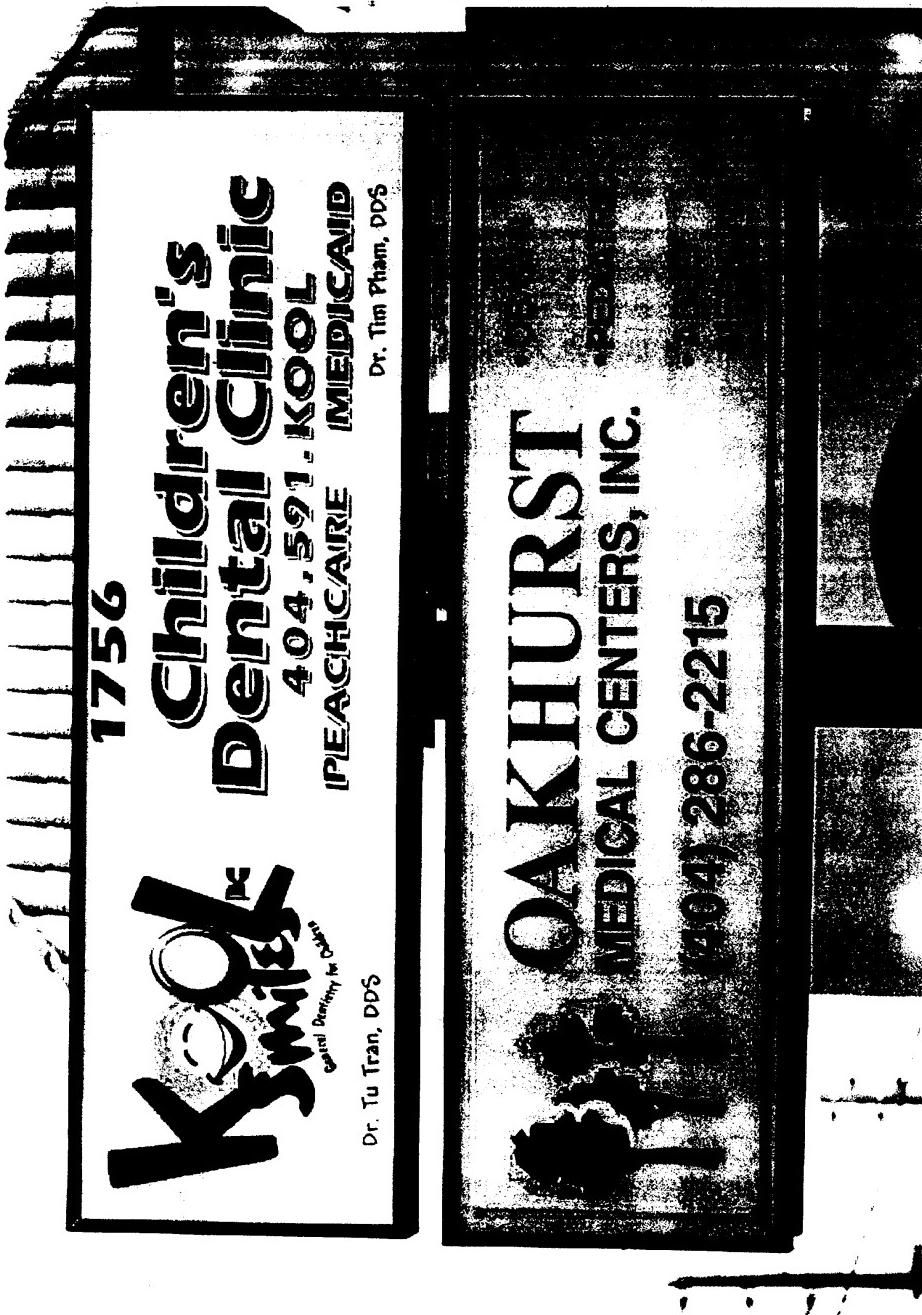
NCDR, L.L.C.

**BUSINESS ADDRESS AND SITUS:**

3145 E. Chandler Boulevard  
Suite 110-636  
Phoenix, Arizona 85048

**Submitted:**

One (1) color and one (1) black and white copy  
of the signage displaying the mark, identifying  
the services and providing contact information to  
enable potential customers to obtain the services.





12-23-2002

U.S. Patent & TM Ofc/TM Mail Rcpt Dt. #67

**DRAWING**

APPLICANT: NCDR, L.L.C.

P.O. ADDRESS: 3145 E. Chandler Boulevard  
Suite 110-636  
Phoenix, Arizona 85048

DATE OF FIRST USE: August 15, 2002

DATE OF FIRST USE IN COMMERCE: August 15, 2002

SERVICES: Dental services.

CLASS: 44

**KOOL SMILES**

U.S. Patent & TM Ofc/TM



**76477494**

NCDR, L.L.C. for  
KOOL SMILES

- 3 -

Use Based 40789.0100  
Express Mail Label No. EL599951440US

**76477494**

**TRADEMARK APPLICATION SERIAL NO.**

**U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
Fee Record Sheet**

12/26/2002 SWILSON1 00000268 76477494  
01 FC:6001                           325.00 OP

**Snell & Wilmer**  
L.L.P.  
LAW OFFICES

One Arizona Center  
Phoenix, Arizona 85004-2202  
(602) 382-6000  
Fax: (602) 382-6070  
[www.swlaw.com](http://www.swlaw.com)

R. Lee Fraley (602) 382-6250  
[rfracley@swlaw.com](mailto:rfracley@swlaw.com)

PHOENIX, ARIZONA

TUCSON, ARIZONA

IRVINE, CALIFORNIA

SALT LAKE CITY, UTAH

DENVER, COLORADO

LAS VEGAS, NEVADA

December 20, 2002

Assistant Commissioner for Trademarks  
Box NEW APP FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

Re: NCDR, L.L.C.  
Application for Federal service mark registration  
Mark: KOOL SMILES  
Our Docket No.: 40789.0100

Dear Assistant Commissioner:

Enclosed is the Application of NCDR, L.L.C. for the service mark:

KOOL SMILES

in respect of dental services (Int'l Class 44).

Also enclosed are:

at least one (1) specimen of the mark as actually used;  
a drawing; and  
a check in the amount of \$325.00 to cover the filing fee.

Should there be a deficiency in the fee enclosed, please charge our deposit account (19-2814) for the difference, **for which purpose a duplicate copy of this sheet is enclosed.**

Please stamp and date the enclosed postcard to acknowledge receipt of the above materials and return it to us.

Very truly yours,  
Snell & Wilmer



R. Lee Fraley  
Attorney for Applicant

RLF:lha  
Enclosures

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application for Service Mark Registration

Mark: KOOL SMILES

Int'l Class: 44

Applicant: NCDR, L.L.C.  
a Delaware limited liability company

Business Address            3145 E. Chandler Boulevard  
and Situs:                   Suite 110-636  
                                    Phoenix, Arizona 85048

TO THE ASSISTANT COMMISSIONER FOR  
TRADEMARKS  
Box NEW APP FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

Dear Assistant Commissioner:

Applicant has adopted and is using in commerce the above-identified service mark shown in the accompanying drawing and requests registration of such mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §1051, *et seq.*, as amended) for the following services:

Dental services in Class 44.

The mark was first used by applicant in connection with such services at least as early as August 15, 2002, was first used in interstate commerce in connection with such services at least as early as August 15, 2002; and is now in use in such commerce by applicant.

**POWER OF ATTORNEY AT LAW**

Applicant hereby appoints Snell & Wilmer L.L.P. and attorneys at law thereof R. Lee Fraley, Michael K. Kelly, Charles F. Hauff, Jr., Howard I. Sobelman, Laura J. Zeman, David O. Caplan, Cynthia L. Pillote, Daniel R. Pote, Sid Leach; Damon L. Boyd, Thomas V. DelRosario, Wendy Neal, Michelle Whittington, Shahpar Shahpar, Allan Watts, Thomas Finn, Patrick Mixon, William F. Mulholland, II, John Platt and Dave Wood all of One Arizona Center, 400 East Van Buren, Phoenix,

EL599951440US

AZ 85004-2202, telephone (602) 382-6000, as its attorneys to prosecute this application, to register with full power of substitution and revocation, to transact all business in the U.S. Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration. Every member of the firm of Snell & Wilmer L.L.P. and every attorney at law associated with that firm is hereby authorized to sign any paper and to conduct any business on behalf of the applicant in this case. It is requested that correspondence be sent to Snell & Wilmer L.L.P., One Arizona Center, 400 East Van Buren, Phoenix, AZ 85004-2202, Attention: Intellectual Property Dept.

#### DECLARATION

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NCDR, L.L.C.

By \_\_\_\_\_

Signature

**12/19/2002**

Date

**Mark Blomquist**

Printed Name

**Member – NCDR LLC**

Title

**SPECIMENS**

MARK: KOOL SMILES

APPLICANT: NCDR, L.L.C.

BUSINESS ADDRESS AND SITUS: 3145 E. Chandler Boulevard  
Suite 110-636  
Phoenix, Arizona 85048

Submitted: One (1) color and one (1) black and white copy  
of the signage displaying the mark, identifying  
the services and providing contact information to  
enable potential customers to obtain the services.



12-23-2002

U.S. Patent & TM Ofc/TM Mail Rcpt Dt. #67

**DRAWING**

APPLICANT: NCDR, L.L.C.

P.O. ADDRESS: 3145 E. Chandler Boulevard  
Suite 110-636  
Phoenix, Arizona 85048

DATE OF FIRST USE: August 15, 2002

DATE OF FIRST USE IN COMMERCE: August 15, 2002

SERVICES: Dental services.

CLASS: 44

**KOOL SMILES**

U.S. Patent & TM Ofc/TM



**76477494**

NCDR, L.L.C. for  
KOOL SMILES

- 3 -

Use Based 40789.0100  
Express Mail Label No. EL599951440US

